

REMARKS

I. INTRODUCTION

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

II. STATUS OF THE CLAIMS

By the present amendment, claim 1 is amended, claim 2 is cancelled and new claim 4-6 are added. Claims 1 and 3-6 are pending with claim 1 being the sole independent claim. It is respectfully submitted that no new matter is added herewith.

III. SUMMARY OF THE OFFICE ACTION

In the Office Action, claims 1-3 remain rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; and claims 1-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable by *Hanson* (U.S. Patent No. 3,591,983).

IV. ARGUMENTS

A. Amendments to the Specification

By the present amendment, at page 2 of Applicant's disclosure, the related applications section has been amended to reflect the abandoned status of the related applications.

The specification is also amended to clarify that the vertical line is a vertical axis and that the upper curvature of the rail also defines an axis. Applicant submits that no new matter

is added because both axes are shown in figure 1. Additionally, the specification is amended to clarify the rail 7 trajectory and the curvature thereof. More specifically, page 4 of the specification is amended to include a clarification of the radius R being from the center curve C to a side of the rail (the side that is substantially perpendicular to the window). The amended specification also explains that the side of the rail 7 is preferably curved to define a substantially curved trajectory which the window follows during operation of the device. Applicant submits that no new matter is added because the sides and curvature of the rail 7 are shown in Figure 1, and the curved trajectory of the window is shown in figure 3-5.

Therefore, Applicant respectfully requests entrance of the amendments to the specification.

B. Rejection to Claims 1-3 under 35 U.S.C. § 112, second paragraph

In the Office Action, claims 1-3 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, claim 1 has been carefully reviewed and is amended to change “the vertical line” to “a vertical axis” and “the initial upper curvature” to “an axis defined by an upper curvature”. Support for these claims amendments can be found at page 4, line 17-18 (including the amendments to the specification), and Figure 1. Applicant submits that those amendments to claim 1 clarify “the vertical line” and “the initial upper curvature” objected to in the Office Action. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-3 under 35 U.S.C. § 112, second paragraph.

C. Rejection of Claims 1-3 under 35 U.S.C. § 103(a)

In the Office Action, claims 1-3 are rejected under 35 U.S.C. § 103(a) as being anticipated by *Hanson* (U.S. Patent No. 3,591,983). Applicant respectfully traverses.

Independent claim 1, as amended, recites an operating device comprising, among other elements, at least one slider which slides along a rail wherein the rail defines a substantially curved trajectory which the window follows during operation and wherein the substantially curved trajectory includes several curves with corresponding changes in curvature without points of inflection. Note that this claim language was originally recited in dependent claim 2 (now cancelled). *Hanson*, in contrast, fails to disclose, teach, suggest or render obvious the slider and rail of the claimed invention, including a rail that defines a substantially curved trajectory.

Hanson discloses that the window panel 30 and the plate 42 move as a unit by a lift arm 96 in a path defined by a cam channel 34 to raise and lower the window panel 30. Unlike the claimed invention, the lift arm 96 of *Hanson* simply moves the window panel and plate longitudinally up and down and not in a curved trajectory. That is because the *Hanson* device is applicable to vehicle front doors where the door frame 30 has the pillars 20. Other the other hand, Applicant's disclosure relates to a cabriolet type vehicle that does not have such pillars. Therefore, the window 30 of *Hanson* can not have a curved trajectory. Moreover, the cam channel 34 is straight and thus does not define a curved trajectory for the window, much less one that includes several curves with corresponding changes and curvature without points of inflection, as recited in claim 1.

Consequently, a prime facie case of obviousness has not been established because all of the specific claim limitations of independent claim 1 are not found in *Hanson* nor rendered

obvious by *Hanson*. Therefore, Applicant respectfully requests reconsideration and withdrawal of independent claim 1 and its dependent claim 3 under 35 U.S.C. § 103(a).

V. NEW CLAIMS

New claims 4-6 are added which depend from independent claim 1. Accordingly, Applicant submits that new dependent claims 4-6 are allowable over *Hanson* for the same reasons discussed above with respect to independent claim 1.

Moreover, these new claims recite additional features not found in *Hanson*. For example, dependent claim 4 recites that the curvature radius is more than 500 mm. Applicant respectfully submits that a curvature radius of more than 500 mm would not have been obvious to one of ordinary skill in the art as suggested in the Office Action. Applicant submits that such conclusion requires improper hind sight based on Applicant's disclosure. Also, new dependent claim 5 recites that the side of the rail is curved and that that side of the rail is substantially perpendicular to the window. Support for this claim is found in at least Figure 1 of the Applicant's disclosure. In contrast, the sides of the cam channel 34 of *Hanson* are clearly both straight, as seen in Figures 1 and 2. That is, there is no curvature to either side of the cam channel 34 of *Hanson*. Finally, new dependent claim 6 recites that the slider is moved by a cable. Support for this claim is found on page 4, line 9 and Figure 1 of Applicant's disclosure. *Hanson*, on the other hand, teaches moving the cam channel 34 by a lift arm 96, and not a cable.


Accordingly, Applicant submits that new dependent claims 4-6 are allowable over *Hanson*.

VI. CONCLUSION

In view of the foregoing discussion and present amendments, it is respectfully submitted that this application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (001058-00036). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, Applicants hereby petition under 37 C.F.R. 1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above.

Respectfully submitted,

By: /Tara L. Marcus/ 
Tara L. Marcus
Reg. No. 46,510

Date: December 15, 2009

BLANK ROME LLP
Watergate 600 New Hampshire Ave., N.W.
Washington, D.C. 20037-2485
(202) 772-5800 (Phone)
(202) 572-8398 (Facsimile)